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EXAMINER

PHAM, THOMAS K

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No. 09/827,105	Applicant(s) OUZOUNIDIS ET AL.	
	Examin r Thomas K Pham	Art Unit 2121	

-- **Th MAILING DATE of this communication app ars on the cover sheet with the correspondenc address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-19,21-25,28,29 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-19,21-25,28,29 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is in response to request for re-consideration filed on 11/10/2004.
2. Claims 1-6, 8-19, 21-25, 28-29, and 31 have been considered but they are not persuasive.
3. Applicant's amendment, with respect to the new issue of claims 1, 8, 10-14, 21, 23-25, 29 and 31, necessitated the new ground(s) of rejection presented in this Office action.

Quotations of U.S. Code Title 35

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim Rejections - 35 USC § 102

8. Claims 1-4, 8-10, 12-17, 21-23, 25, 28, 29 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,928,325 ("Shaughnessy").

Regarding claims 1 and 29

Shaughnessy teaches enabling the sending of messages to a recipient via any of a number of messaging systems of different types, the method comprising:

- storing address for said recipient (col. 4 line 66 to col. 5 line 6, "Upon receipt of the message ... of known database users") at least on address being selectively identified by said recipient as a preferred address for communication with said recipient (col. 5 lines 17-22, "Once all the networks ... a decisional operation based" [The user-device select rules could includes prioritization of the device with respect to other devices of recipient. Therefore, based on the select rules, an available device with the highest priority (preferred device) should be selected first]);
- receiving recipient availability information from said messaging systems (col. 5 lines 7-16, "The central agent 15 ... in a known manner");
- interpreting said recipient availability information so as to determine in which of said messaging systems said recipient is currently available (col. 5 lines 17-20, "Once all the networks ... to send a message transmit"), wherein said recipient is considered to be available in at least said messaging system associated with said preferred address (col. 5 lines 10-14, "The central agent 15 then polls ... the incoming message right now" [it is inherent that the preferred address must belong to one of the available messaging systems]);

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- receiving an originator input including an identification of said recipient (col. 5 lines 10-14, “The central agent 15 then polls ... the incoming message right now”), wherein said originator input further includes a message [by polling the devices, the originator inherently sends a type of message to the devices in order to receive a response from the available one(s)];
- identifying at least the messaging system associated with the preferred address (col. 5 lines 42-59, “Because the format type ... a low resolution graphics terminal”); and
- sending said message to said recipient via at least said messaging system associated with said preferred address (col. 5 lines 30-37, “When the device(s) to send ... on the chosen network(s)”).

Regarding claims 2 and 15

Shaughnessy teaches one of said messaging system is a cellular mobile system and said recipient availability information includes an indication of whether a mobile unit of said recipient is available or not (col. 4 lines 3-14, “The central controller switch 31 ... by the central controller switch 31”).

Regarding claims 3 and 16

Shaughnessy teaches indication of whether said mobile unit of said recipient is available or not is an indication of whether said mobile unit of said recipient is attached to said cellular mobile system or not, further comprising: determining that said mobile unit of said recipient is available if said mobile unit of said recipient is attached to said cellular mobile system, and determining that said mobile unit of said recipient is not available otherwise (col. 4 lines 46-58, “The central agent 15 ... to the graphics terminal 44”).

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Regarding claims 4 and 17

Shaughnessy teaches indication of whether said mobile unit of said recipient is attached to said cellular mobile system or not is received from a Home Location Register in said cellular mobile system (col. 3 line 65 to col. 4 line 7, "Messages from the central ... of an incoming message").

Regarding claims 8, 21 and 31

Shaughnessy teaches further comprising: choosing a second address among said stored addresses, which second address is associated with a messaging system in which said recipient is currently available (col. 5 lines 36-40, "It is conceivable that the ... currently available user device" [by sending the same message to more than one available devices, the originator inherently includes sending to a second device from the available list]); and sending said message to said recipient via the messaging system associated with said second address (col. 5 lines 64-67, "After the transformation step is ... to the appropriate chosen networks").

Regarding claims 9 and 22

Shaughnessy teaches originator input is received as a voice input, further comprising converting said voice input to text (col. 7 lines 19-27, "although the message ... into one system 10").

Regarding claims 10 and 23

Shaughnessy teaches further comprising: determining the type of message, text or voice, used in the messaging system associated with said second address (col. 5 lines 30-59, "When the device(s) to ... resolution graphics terminal"); and sending said message as said determined type of message to said recipient via the messaging system associated with said second address (col. 5 lines 64-67, "After the transformation step is ... to the appropriate chosen networks").

Regarding claims 12 and 25

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Shaughnessy teaches the messaging system associated with said second address is an e-mail system, said second address is an e-mail address of said recipient, and the message is sent as an e-mail via said e-mail system (col. 6 lines 1-11, "FIG. 3 is a flow diagram ... email message may be sent").

Regarding claims 13 and 28

Shaughnessy teaches receiving a reply message from said recipient as said determined type of message via the messaging system associated with said second address (col. 6 lines 18-24, "Once the availability of ... to the available devices"); converting said reply message to voice if said reply message is a text message (col. 6 lines 25-39, "If the email message ... for this purpose").

Regarding claim 14

Shaughnessy teaches a system for enabling the sending of messages to a recipient via any of a number of messaging systems of different types, comprising:

- first interface means connected to said messaging systems (col. 3 line 65 to col. 4 line 3, "Messages from the central agent 15 ... of the cellular phone 34");
- second interface means for receiving an originator input including an identification of said recipient (col. 5 lines 10-14, "The central agent 15 then polls ... the incoming message right now"), said originator input further include a message [by polling the devices, the originator inherently sends a type of message to the devices in order to receive a response from the available one(s)];
- third interface means for receiving recipient availability information from said messaging systems (col. 4 lines 3-7, "The central controller ... of an incoming message");

- memory means for storing address for said recipient (col. 4 line 66 to col. 5 line 6, “Upon receipt of the message ... of known database users”) at least on address being selectively identified by said recipient as a preferred address for communication with said recipient (col. 5 lines 17-22, “Once all the networks ... a decisional operation based” [The user-device select rules could includes prioritization of the device with respect to other devices of recipient. Therefore, based on the select rules, an available device with the highest priority (preferred device) should be selected first]);
- first processing means for choosing at least said preferred address of the stored addresses, and for identifying at least the messaging system associated to the preferred address (col. 5 lines 42-59, “Because the format type ... a low resolution graphics terminal”); and
- second processing means for interpreting said recipient availability information so as to determine in which of said messaging systems said recipient is currently available (col. 5 lines 17-20, “Once all the networks ... to send a message transmit”), wherein said recipient is considered to be available in at least said messaging system associated with said preferred address (col. 5 lines 10-14, “The central agent 15 then polls ... the incoming message right now” [it is inherent that the preferred address must belong to one of the available messaging systems]);
- wherein said first processing means are operatively connectively connected to said second processing means and said first interface means are arranged to send said message to said recipient via at least said messaging system associated with said preferred address (col. 5 lines 30-37, “When the device(s) to send ... on the chosen network(s)”).

Claim Rejections - 35 USC § 103

9. Claims 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaughnessy in view of U.S. Patent No. 5,901,359 ("Malmstrom").

Regarding claims 5 and 18

Shaughnessy teaches enabling the sending of messages to a recipient via any of a number of messaging systems of different types but does not teach indication of whether said mobile unit of said recipient is attached to said cellular mobile system or not is received from a Visitor Location Register in said cellular mobile system. However, Malmstrom teaches indication of whether the mobile unit of the recipient is attached to the cellular mobile system or not is received from a Visitor Location Register in said cellular mobile system (col. 3 lines 14-34, "The system includes a Wireline ... telephone number destination") for the purpose of routing single-number calls to the appropriate wireless network based upon the current location of the wireless recipient. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the system of Malmstrom with the system of Shaughnessy because it would provide for the purpose of routing single-number calls to the appropriate wireless network based upon the current location of the wireless recipient.

10. Claims 6, 11, 19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaughnessy in view of U.S. Patent No. 6,018,657 ("Kennedy").

Regarding claims 6 and 19

Shaughnessy teaches enabling the sending of messages to a recipient via any of a number of messaging systems of different types but does not teach sending a Short Message Service

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message to said mobile unit of said recipient via a Short Message Service Center in said cellular mobile system; determining that said mobile unit of said recipient is available if an acknowledgement is received from the Short Message Service Center within a time limit; and determining that said mobile unit of said recipient is not available otherwise. However, Kennedy teaches determining the availability status of a mobile unit by sending short messages to the mobile unit for predetermine time interval (col. 10 line 62 to col. 11 line 7, "destination messaging unit 14 ... could not be delivered") for the purpose of obtaining the availability status of the mobile unit when the unit may have traveled outside of the coverage area, powered down or is otherwise unable to receive a message. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the messaging system of Kennedy with the system of Shaughnessy because it would provide for the purpose of obtaining the availability status of the mobile unit when the unit may have traveled outside of the coverage area, powered down or is otherwise unable to receive a message.

Regarding claims 11 and 24

Kennedy teaches the messaging system associated with the second address is a cellular mobile system, the second address is a mobile phone number of a mobile unit of the recipient (col. 1 lines 48-61, "a system for communicating ... the cellular telephone network"). Shaughnessy and Kennedy do not teach the message is sent as a Short Message Service message via said cellular mobile system. "Official Notice" is taken that both the concept and advantages of providing a Short Message Service message via said cellular mobile system is well known and expected in the art. U.S. Patent No. 5,915,222 by Olsson et al. discloses transporting short message service messages via the cellular mobile system (see col. 2 lines 23-39). It would have been obvious to

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one of ordinary skill in the art to include the Short Message Service message for use with the cellular mobile system because it would provide a more effective and manageable by any cellular mobile unit.

Response to Arguments

11. Applicant's arguments with respect to claims 1-6, 8-19, 21-25, 28-29, and 31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday - Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450**. Responses may also be faxed to the **official fax number (703) 872- 9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas Pham
Patent Examiner

TP

January 14, 2005


Anthony Knight
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